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NTSB Order No. EA-3666

**UNITED STATES OF AMERICA  
NATIONAL TRANSPORTATION SAFETY BOARD  
WASHINGTON, D.C.**

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD  
at its office in Washington, D.C.  
on the 17th day of August, 1992

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THOMAS C. RICHARDS,  
Administrator,  
Federal Aviation Administration,

Complainant,

Docket SE-10250

v.

DALE E. HALTER,

Respondent.

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**OPINION AND ORDER**

The Administrator appeals from the oral initial decision of Administrative Law Judge Joyce Capps, issued in this proceeding on February 5, 1990 at the conclusion of an evidentiary hearing.<sup>1</sup> The law judge reversed an order of the Administrator issued on May 12, 1989 suspending respondent's mechanic certificate with airframe and powerplant ratings for 120 days for his alleged violations of sections 43.13(a), 43.13(b), and

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<sup>1</sup>A copy of the oral initial decision, an excerpt from the transcript, is attached.

65.81(b) of the Federal Aviation Regulations (FAR), 14 C.F.R. Parts 43 and 65.<sup>2</sup>

It is undisputed that on July 18, 1988, respondent installed an air/oil separator kit in a Bellanca Viking Model 17-30A, identification number N28140.<sup>3</sup> It is also undisputed that

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<sup>2</sup>FAR sections 43.13(a), 43.13(b), and 65.81(b) state, in relevant part:

"§ 43.13 *Performance rules (general)* .

(a) Each person performing maintenance, alteration, or preventive maintenance on an aircraft, engine, propeller, or appliance shall use the methods, techniques, and practices prescribed in the current manufacturer's maintenance manual or Instructions for Continued Airworthiness prepared by its manufacturer, or other methods, techniques, and practices acceptable to the Administrator, except as noted in § 43.16. He shall use the tools, equipment, and test apparatus necessary to assure completion of the work in accordance with accepted industry practices. If special equipment or test apparatus is recommended by the manufacturer involved, he must use that equipment or apparatus or its equivalent acceptable to the Administrator.

(b) Each person maintaining or altering, or performing preventive maintenance, shall do that work in such a manner and use materials of such a quality, that the condition of the aircraft, airframe, aircraft engine, propeller, or appliance worked on will be at least equal to its original or properly altered condition (with regard to aerodynamic function, structural strength, resistance to vibration and deterioration, and other qualities affecting airworthiness) ."

"§ 65.81 *General privileges and limitations*. \* \* \*

(b) A certified mechanic may not exercise the privileges of his certificate and rating unless he understands the current instructions of the manufacturer, and the maintenance manuals, for the specific operation concerned."

<sup>3</sup>The kit was not covered by a Supplemental Type Certificate (STC) for the Bellanca Viking. However, its manufacturer told respondent that the air/oil separator could most likely be used on the Viking, but would require either an addition to the STC or a field approval prior to being considered airworthy. The manufacturer also requested that respondent send them a diagram of his installation that they might use in the future to acquire an STC.

respondent's choice of location for the separator's drain line was inappropriate.

The basic purpose of the air/oil separator is to collect and recycle oil which would otherwise be lost to the atmosphere. However, when respondent installed the kit, he mistakenly put the oil drain line into a high pressure area of the oil pump housing and shaft assembly, which caused the oil to be blown out of the engine instead of being recycled, when the aircraft's owner prematurely operated it. The result was substantial engine oil loss, leading to the crash of the plane on takeoff. The owner, who was flying the plane despite his prior acknowledgement of at least three warnings that an inspection, an approval, and a form 337 were required before the plane could be returned to service, died in the crash.<sup>4</sup> Although respondent, at the time of the fatal flight, had essentially completed his work on the plane to the point where he believed at the time that the air/oil separator was correctly installed, he knew the plane was not legal to fly. The necessary paperwork, a form 337, had not yet

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<sup>4</sup>The owner was able to access the plane because respondent had returned the plane to the owner's hangar to make room in his company's hangar for other planes requiring maintenance. After installing the air/oil separator, and while waiting to hear back from its manufacturer about his drawing of the installation, respondent made an entry in the plane's logbook stating that he had performed the alteration and referencing a form 337 which did not yet exist in its final form. Respondent made the entry to comply with the FARs. Then to prevent the loss of the plane's logbook, respondent locked it in the baggage compartment of the aircraft before returning the plane to the owner's hangar. There was nothing in the record to indicate whether the owner knew that the logbooks were in the plane or that he looked **at them before** flying it.

been completed because respondent's work lacked the approval of an FAA representative.<sup>5</sup>

The law judge found that respondent could not be judged on his work until the job was completed, including the required paperwork, and the plane was returned to service after a necessary inspection by another mechanic.<sup>6</sup> The system of checks necessary to return a plane to service should have caught respondent's error. The law judge noted that to decide otherwise might unduly restrict a mechanic's ability to perform maintenance, as any error, even a minor one, could result in sanctions.

The Administrator argues on appeal that because there are distinct and separable steps in the maintenance process, it is appropriate to judge the adequacy of the work respondent had completed before the installation was finally approved by the FAA or inspected. The Board disagrees.

We are not persuaded that a mechanic should be liable under the performance standards in Part 43 until he has finished the job he has undertaken to do. The facts of this case support the law judge's conclusion that respondent's judgment as to the

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<sup>5</sup>A draft 337 form for the job containing some incorrect statements existed in respondent's files, but the law judge found as a matter of fact that respondent did not intend it to be the final copy.

<sup>6</sup>The law judge found that respondent believed that he was taking the first step in initiating the approval process for his alteration **by sending a drawing of his work to the manufacturer** of the air/oil separator for their input before calling the FAA.

adequacy of his installation was at best tentative, subject to review as further information was received and evaluated.<sup>7</sup>

**ACCORDINGLY, IT IS ORDERED THAT:**

1. The Administrator's appeal is denied; and
2. The initial decision, dismissing the Administrator's order of suspension, is affirmed.

VOGT, Chairman, COUGHLIN, Vice Chairman, LAUBER, HART, and HAMMERSCHMIDT, Members of the Board, concurred in the above opinion and order.

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<sup>7</sup>See also Administrator v. Aircraft Engine Maintenance, 3 NTSB 3051 (1980) (declining to hold a mechanic liable under § 43.13(a) for an error he made and corrected after it was revealed by testing) .